

MINUTES OF THE CITY OF BURLINGTON
CITY COUNCIL MEETING
APRIL 20, 2010

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on April 20, 2010, at 7:00 p.m.

Mayor Ronnie K. Wall presided

Councilmembers Present: Mayor Wall, Councilmembers Huffman,
Butler, Ross and Faucette

Councilmembers absent: None

Harold Owen, City Manager: Present

Robert M. Ward, City Attorney: Present

Jondeen D. Terry, City Clerk: Present

INVOCATION: Councilmember Jim Butler

PRESENTATION TO COUNCIL: Tree City USA

MINUTES

Mayor Wall called for approval of the City Council minutes of the work session held on April 5, 2010, and the City Council meeting held on April 6, 2010.

Upon motion by Councilmember Ross, seconded by Councilmember Faucette, it was resolved unanimously to approve the minutes of the above-referenced meetings.

ADD-ONS: CONSENT AGENDA:

1. Settlement of Lawsuit
2. December 15, 2009 - City Council Meeting Closed Session-Part 1
3. April 5, 2010 - Work Session Closed Session Minutes

Upon motion by Mayor Pro Tem Huffman, seconded by Councilmember Butler, it was resolved unanimously to add the items to the agenda.

Upon motion by Councilmember Ross, seconded by Mayor Pro Tem Huffman, it was resolved unanimously to adopt the agenda as amended.

CONSENT AGENDA:

ITEM 1:

A) To approve the following Traffic Commission recommendations:

1. Striping and crosswalk plan for North Fairway Drive. The striping will consist of a double yellow line along North Fairway Drive from Edgewood Avenue to Pineway Drive and three crosswalks along North Fairway: one at Dogwood Lane, Oakwood Drive, and at the swimming pool entrance.
2. No parking zone on the south side of Hilton Road from the east edge of LaRosa Pinnix-Bailey DDS driveway to a point 60 feet east from the same.

10-07

AMENDMENT TO THE CITY OF BURLINGTON TRAFFIC ORDINANCE

BE IT ORDAINED by the City Council of the City of Burlington:

A) To adopt an ordinance approving the following Traffic Commission recommendations:

1. Striping and crosswalk plan for North Fairway Drive. The striping will consist of a double yellow line along North Fairway Drive from Edgewood Avenue to Pineway Drive and three crosswalks along North Fairway: one at Dogwood Lane, Oakwood Drive, and at the swimming pool entrance.
2. No parking zone on the south side of Hilton Road from the east edge of LaRosa Pinnix-Bailey DDS driveway to a point 60 feet east from the same.

B) That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

C) That this ordinance shall take effect upon passage.

B) To approve a Temporary Street Closing policy authorizing the City Manager to approve temporary street closings for "non-profit events."

C) To adopt a resolution establishing a precatory trust for Daphne's Fragrance Garden.

10-05

RESOLUTION ESTABLISHING A PRECATORY TRUST FOR DAPHNE'S FRAGRANCE GARDEN

WHEREAS, the City earlier received a donation for the construction of a fragrance garden adjacent to the John Robert Kernodle Senior Center which was named "Daphne's Fragrance Garden" in honor of the donor's long-time guide dog; and,

WHEREAS, the purpose of said fragrance garden is for all citizens to enjoy including particularly the visually impaired who could go through this garden and be able to smell and feel the flowers and shrubbery; and,

WHEREAS, the donor has requested that this garden be continued for the enjoyment of current and future generations of citizens at its present location adjacent to the John Robert Kernodle Center as long as it is feasible and not needed for other city or public purposes.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON that:

1. It is the desire of the City Council that said Daphne's Fragrance Garden be continued for the enjoyment of current and future generations of citizens at its present location adjacent to the John Robert Kernodle Center so long as it is feasible and not needed for other city or public purposes; and,

2. It is further the desire of the City Council that in the event said Daphne's Fragrance Garden, in the future, needs to be relocated every effort will be made to relocate said Daphne's Fragrance Garden on other available and suitable City property; and,

3. It is further the desire of the City Council and it does hereby request future City Councils to honor this trust in accordance with the then existing law and the terms and conditions of this resolution; and,

4. It being expressly understood that this resolution shall be deemed only to create a precatory trust and shall neither be deemed in any manner an alienation of the City's fee interest in said property nor considered an encumbrance on the free alienability or future use of said property.

D) To award a bid to Wells Fargo for a lease purchase funding agreement at a loan interest rate of 2.05% for all major equipment purchases and to be conditional upon all financing documents proposed by Wells Fargo meeting the approval of the City Attorney.

E) Budget Amendment 2010-42 - Spay & Neuter Clinic - Donation from PAWS

BA2010-42

Increase Revenues:

| | | |
|----------------|--------------------------------|----------|
| 010-33305-5221 | Donations-Spay & Neuter Clinic | \$35,399 |
|----------------|--------------------------------|----------|

Increase Expenditures:

| | | |
|----------------|---------------------------|--------|
| 010-51522-3306 | Subsistence & Animal Care | \$ 48 |
| 010-51521-3300 | Departmental Supplies | 294 |
| 010-51521-3306 | Subsistence & Animal Care | 1,619 |
| 010-51522-3390 | Equipment Not Capitalized | 33,438 |

F) Budget Amendment 2010-43 - CDBG Reallocation of Funds

BA2010-43

Decrease Expenditures:

| | | |
|----------------|----------------------------------|----------|
| 554-60104-6841 | 09-10 Maple Ave Sidewalk Project | \$25,000 |
|----------------|----------------------------------|----------|

Increase Expenditures:

| | | |
|----------------|-------------------------------|----------|
| 554-60104-6846 | 09-10 North Park Improvements | \$25,000 |
|----------------|-------------------------------|----------|

G) To approve an agreement for services with Schnabel Engineering South, P.C. and Budget Amendment 2010-44 - Establish Water Resources Capital Project for Stoney Creek Dam and Lake Cammack Dam

BA2010-44

Increase Revenues:

| | | |
|----------------|---------------------------|-----------|
| 030-39398-0000 | Appropriated Fund Balance | \$419,000 |
|----------------|---------------------------|-----------|

419,000

| | | |
|----------------|-------------------------|-----------|
| 030-66661-9100 | Operating Transfers Out | \$419,000 |
| 036-70000-9100 | Operating Transfers Out | 419,000 |

- Upon motion by Councilmember Butler, seconded by Councilmember Ross, it was resolved unanimously to approve the foregoing consent agenda.

REZONE PROPERTY - ANTHONY ROAD - FOR USE AS A CHURCH

10-08

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Anthony Rd. for Church and Related Activities)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from I-1A, Planned Industrial-Residential District, to CI, Conditional Industrial District, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located at 2051 Anthony Road as shown on Alamance County Tax Map 12-5, Lot 44A, consisting of 1.92 acres.

Section 2. That the rezoning from I-1A to CI is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

Church facility and all related activities and all uses permitted in I-1A zoning.

Development Conditions

1. Existing gravel parking and landscaping shall remain.
2. Signage shall comply with I-1A zoning district.
3. Building shall comply with NC Building Codes for a church.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Ross, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Wall, Huffman, Butler, Ross and Faucette.

REZONE PROPERTY - NORTH CHURCH STREET - CAREER AND TECHNICAL
EDUCATION CENTER

Mayor Wall announced that a public hearing had been scheduled to consider rezoning from R-9, Residential District, and B-2, General Business District, to COI, Conditional Office-Institutional District, for a career and technical education center. The property is located on the north side of North Church Street approximately 250 feet east of McKinney Street as shown on Alamance County Tax Map 13-17, Lots 4C and 4D, consisting of 8.07 acres.

Mayor Wall requested to be excused from voting on this rezoning request due to his position as Assistant Superintendent of Facilities at the Alamance Burlington School System (ABSS).

Upon motion by Councilmember Ross, seconded by Councilmember Faucette, it was resolved unanimously to allow Mayor Wall to recuse himself from consideration of this item.

Mr. Warren D. Yarbrough, representing Alamance-Burlington School System, introduced Mr. Andrew Moriarty, civil engineer with the Timmons Group, and Mr. Thomas W. Hughes with SFL&A Architects.

Mr. Moriarty said he was retained by SFL&A to prepare site documents related to the rezoning of the two parcels of land to be rezoned to COI, Conditional Office-Institutional District, for the new career and technical education center.

Mr. Moriarty stated that the two-acre tract that fronts on US Highway 70 (North Church Street) is currently zoned B-2. He explained that one of three entrances would be located on North

Church Street - right in/right out only. He stated that 80 percent of the vehicles entering the property would be coming from the west; therefore, students/staff coming from the east would enter at this location and those exiting would be required to turn right only onto North Church Street and continue west or would have to exit from Buckingham Road/McKinney Street if they were traveling east. He pointed out that the six-acre tract on Buckingham Road to the rear and adjacent to Andrews Elementary School is zoned R-9 with two entrances - one for students/staff and the other for buses only. He said there would be 200 parking spaces around the building area, a service area on the eastern side of the building, and all other typical amenities such as storm water management, landscaping and lighting.

Mr. Tom Hughes stated that the 40,000 plus square-foot school would be two stories and would serve as a supplement to the high school education program for ABSS. Mr. Hughes stated the two specific concerns expressed by members of the Planning and Zoning Commission had been addressed by coordinating bus and vehicular traffic between Andrews and the new school. He said that bus arrivals and departures would not overlap and would create a safe environment. He also said that he had filed a letter with the North Carolina Department of Transportation concerning the speed limit on US 70.

Councilmember Faucette asked about the retention pond and if a six-foot fence was high enough, and Mr. Hughes said he would be happy to evaluate it. Councilmember Faucette suggested extending the school zone a little further east, and Mr. Yarbrough agreed.

Ms. Sheryl Stout spoke on behalf of her father who lives at 2612 North Church Street. She expressed concern about his privacy and the possibility of a landscaping buffer between his house and the Gilliam house.

Mr. Hughes said he would be willing to add buffering between those two properties. He said there would be no light spill on her father's property.

Upon motion by Councilmember Faucette, seconded by Councilmember Ross, it was resolved unanimously to close the public hearing.

Councilmember Ross moved for the adoption of the following ordinance with the additional condition of buffering on the southern part of the property.

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on North Church Street for Career and Technical Education Center)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from R-9, Residential District, and B-2, General Business District, to COI, Conditional Office-Institutional District, for a career and technical education center subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on the north side of North Church Street approximately 250 feet east of McKinney Street as shown on Alamance County Tax Map 13-17, Lots 4C and 4D

Section 2. That the rezoning from R-9, Residential District, and B-2, General Business District, to COI, Conditional Office-Institutional District, is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

Public career and technical education center.

Development Conditions

1. There shall be an enhanced landscape buffer provided along the western property line.
2. Applicant shall request voluntary annexation into the City limits of Burlington prior to a Certificate of Occupancy being approved.
3. Applicant shall petition the North Carolina Department of Transportation to reduce the speed limit on North Church Street in the school zone.
4. There shall be buffering on the south side between the education center and the Stout and Gilliam properties.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including

site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Butler, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Huffman, Butler, Ross and Faucette. Mayor Wall abstained from voting.

PUBLIC COMMENT PERIOD

There was no public comment.

CITY COUNCIL COMMENTS

Mayor Wall reminded everyone of the meeting with the state legislators on April 30, 2010, at 7:45 AM, at the Kernodle Senior Center to discuss current legislative issues.

ADJOURN

Upon motion by Councilmember Butler, seconded by Councilmember Ross, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk

